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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,796	09/29/2003	Janne Kallio	KOLS.058PA	2976
<div>7590 Hollingsworth & Funk, LLC Suite 125 8009 34th Avenue South Minneapolis, MN 55425</div>			<div>EXAMINER SEYE, ABDOU K</div>	
			<div>ART UNIT 2194</div>	<div>PAPER NUMBER</div>
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/673,796

Applicant(s)

KALLIO ET AL.

Examiner

Abdou Karim Seye

Art Unit

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 20-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 20-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The amendment filed on August 30, 2007 has been received and entered. The amendment amended Claims 1, 3, 17, 26-27 and 34-35 and cancelled claim 19. The currently pending claims considered below are Claims 1-18 and 20-35.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

Claims 17 is non statutory. The claimed system, terminal equipment could be constructed of software program instructions(see specification, page 2, paragraph 8, 13 and 15). Thus, the claimed system comprising of a connection interface, an application interface, an accessory manager and software platform is considered as software program containing machine-executable instructions, per se (and not associated with any physical structure). See MPEP 2106.01 - I: "...computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and

other claimed elements of a computer which permit the computer program's functionality to be realized...".

Dependent Claims 18, and 20-25 are also rejected for failing to remedy the deficiencies of the above rejected non statutory claim 17.

Claim 35 is non statutory. The claimed system, terminal equipment could be constructed of software program instructions (see specification, page 2, paragraph page 2, paragraph 8, 13 and 15). Thus, the claimed system comprising of means for connecting, means for obtaining information and means for executing a proxy application is considered as software program containing machine-executable instructions, per se (and not associated with any physical structure). See MPEP 2106.01 - I: "...computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized...".

Appropriate corrections are required.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

4. The amendment filed on August 30, 2007, has not overcome the rejections to Claims 9,10,12-13,16,21-22 and 25 under 35 U.S.C. 112, second paragraph. Therefore, the examiner hereby maintains those rejections. Claims 9,10,12-13,16,21-22 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Appropriate clarification is required on the following claims:

Claims 9,10,12-13,16,21-22 and 25 contain the trademark/trade name "Java" and "Symbian". Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph (see *Ex parte Simpson*, 218 USPQ 1020; Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade names are used to identify/describe a family of products generated in the proprietary

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programming language called "Java" and an operating system called "Symbian",
accordingly, the identifications/descriptions are indefinite.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5, 8, 11, 14-15, 17-18, 20, 23 and 26-35 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 99/53621.

As to Claims 1, 17, 26 and 34-35 Blow teaches a method and system of communication between terminal equipment and an accessory connected to the terminal equipment, the method comprising

providing in the terminal equipment an application interface for services offered by the terminal (FIG. 1; page 3, lines 10-14; page 6, lines 4-9),

detecting connecting of the accessory to the terminal equipment in the terminal equipment (FIG. 1:110; page 4, lines 3-10),

scanning the software stored in the accessory by the terminal equipment (FIG. 1: page 5, lines 4-25),

detecting a proxy application in the accessory in response to the scanning (FIG. 1: page 6, lines 4-17),

downloading the proxy application from the accessory to the terminal equipment (FIG. 1: page 6, lines 4-17),

executing an accessory software application in the accessory (FIG. 1, page 5, lines 21-26; page 6, lines 26-39),

executing the proxy application in the terminal equipment, the proxy application providing the accessory software application with the services offered by the application interface (FIG. 1: page 4, lines 35-38; page 6, lines 4-39).

As to claim 2, Blow teaches detecting the connecting of the accessory to the terminal equipment automatically in the terminal equipment (page 8, lines 10-24).

As to claim 3, Blow teaches downloading the proxy application from the accessory to the terminal equipment automatically after detecting the accessory (page 4, lines 3-19) .

As to Claim 4, Blow teaches executing the proxy application in the terminal equipment automatically after downloading (page 4, lines 33-39).

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As to Claim 5, Blow teaches, wherein the proxy application sets up and controls data transfer between the accessory and the terminal equipment (page 5, lines 4-13).

As to claim 8, Blow teaches wherein more than one accessory software application is executed in the accessory (page 6, lines 26-39).

As to claims 11, 14-15, 18, 20, 23 and 27-33 they are rejected for the same reasons as the claims above.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obvious rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6 and 7 are rejected under 35 U.S.C. 103 (a) as being unpatentable over WO 99/53621 in view of Imamatsu (US 20040073901).

As to Claims 6 and 7, Blow teaches a method and system of communication between terminal equipment and an accessory connected to the terminal equipment as in claim 1, 17, 26 and 34-35 above.

However, Blow does not explicitly teach querying properties of the application interface, sending information about the properties to the accessory software application, wherein the properties of the application interface comprise the functions supported by the interface and the version of the interface.

Whereas, in the same field of endeavor, Imamatsu discloses a base station in communication with a terminal device and the downloading of control software appropriate to update versions of the control-software to the terminal device (paragraph 32; 36)

It would be obvious to one having ordinary skill in the art at the time the invention was made to modify Blow's invention with Imamatsu's invention to efficiently manage software applications, functions and their versions in a terminal device. One would have been motivated to provide update to software module and version on communication terminals and their accessories in order to provide improvement of communication service (Imamatsu; paragraph 51).

9. Claims 9-10, 12-13 and 16 are rejected under 35 U.S.C. 103 (a) as being unpatentable over WO 99/53621 in view of DeAnna et al (US 20030084056).

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As to Claims 9-10, 12-13 and 16, Blow teaches a method and system of communication between terminal equipment and an accessory connected to the terminal equipment as in claim 1, 17, 26 and 34-35 above.

However, Blow does not explicitly teach, wherein the proxy application is a Java application and the proxy application is interpreted in the terminal equipment by a virtual machine, wherein the accessory software application is a Java application and the application is interpreted in the accessory by a virtual machine, executing the accessory software application in the accessory as a non-Java application, providing by the proxy application in the terminal equipment a Java application interface for the accessory software application, executing the accessory software application in the accessory as a non-Java application, providing by the proxy application in the terminal equipment a non-Java application interface for the accessory software application, wherein the software platform is a Symbian operating system and the proxy application is realized as a Symbian application .

Whereas, in the same field of endeavor, DeAnna et al discloses a network communication including portable devices; applications; object and features operating on a java virtual machine ; non-Java application and Symbian operating system (paragraph 24; 130 and 137).

It would be obvious to one having ordinary skill in the art at the time the invention was made to modify Blow's invention with DeAnna's invention in order to provide a such platform for rapid development and deployment of software component. One would

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have been motivated to combine these two reference in order to provide highly mobile and rapid evolving organization a unique methodology and technology platform that would enable flexible; and rapide device and software integration (DeAnna; paragraph 22).

As to claims 21-22 and 24-25 they are rejected for the same reasons as the claims above.

Response to Arguments

10. Applicant's arguments filed August 30, 2007 have been fully considered but they are not persuasive.

a. Claims: 9,10,12-13,16,21-22 and 25: Applicant argues in page 8 of the Remarks/Arguments section (lines 4-6) of the applicant request for continued examination that : " based upon the comment in the advisory action dated July 24, 2007, it is applicant's understanding that the 112 rejection has been withdrawn." The examiner maintains the 112 rejections of these claims because, neither the specification nor the claims indicate a version of Java and Symbian operating system used in this invention. Therefore, the identifications/descriptions of these claimed elements are indefinite.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.


Findikli (20050014531) discloses a system and method of software transfer between a mobile phone and a mobile phone accessory.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. Abdou Seye whose telephone number is (571) 270-1062. The examiner can normally be reached Monday through Friday from 7:30 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, contact the examiner's supervisor, William Thomson at (571) 272-3718. The fax phone number for formal or official faxes to Technology Center 3600 is (571) 273-8300. Draft or informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 273-6722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-3600.

AKS
October 28, 2007


WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER